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Approved: ____________________
ELI J. MARK
Assistant United States Attorney

Before: THE HONORABLE ANDREW J. PECK
United States Magistrate Judge
Southern District of New York

- X

UNITED STATES OF AMERICA

- v. -

CARMINE MARINO,

Defendant.

- X

SEALED COMPLAINT

Violations of 18 U.S.C. §§ 666, 1344

COUNTY OF OFFENSE: NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

JEROME COMBS, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Education Office of the Inspector General ("DOE-OIG"), and charges as follows:

COUNT ONE
(Conversion and Misapplication Concerning Program Receiving Federal Funds)

1. From in or about 2011 through in or about April 25, 2012, in the Southern District of New York and elsewhere, CARMINE MARINO, the defendant, being an agent of an organization, to wit, City University of New York School of Professional Studies ("CUNY SPS"), said organization receiving benefits in excess of $10,000 of federal grants and financial aid each year between 2011 and 2012, embezzled, stole, obtained by fraud, and otherwise without authority knowingly converted to the use of a person other than the rightful owner, and intentionally misapplied, property worth at least $5,000 and owned by such organization, to wit, MARINO, without authorization from CUNY SPS, caused money in CUNY SPS's bank accounts to be transferred to unauthorized accounts in the name of CUNY SPS from which MARINO then withdrew cash for his personal benefit.

(Title 18, United States Code, Section 666(a)(1)(A).)

COUNT TWO
(Bank Fraud)

2. From at least in or about 2008 up to and including at least in or about 2009, in the Southern District of New York and elsewhere, CARMINE MARINO, the defendant, willfully and knowingly did execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the FDIC, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, MARINO obtained money from an FDIC-insured bank by creating an unauthorized bank account in the name of CUNY SPS under false pretenses.

(Title 18, United States Code, Sections 1344.)

COUNT THREE
(Bank Fraud)

3. From at least in or about 2011 up to and including at least in or about 2012, in the Southern District of New York and elsewhere, CARMINE MARINO, the defendant, willfully and knowingly did execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the FDIC, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, MARINO obtained money from an FDIC-insured bank by creating a second unauthorized bank account in the name of CUNY SPS under false pretenses.

(Title 18, United States Code, Sections 1344.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

OVERVIEW

4. I am a Special Agent for DOE-OIG, and have been in this position for approximately one year. Previously I was a Special Agent with the U.S. Secret Service for over ten years. I am familiar with the facts and circumstances set forth below

from my participation in the investigation of this case, from my personal knowledge, from my conversations with other law enforcement officers, investigators and others, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. I have spoken with investigators with the New York State Office of Inspector General ("NYS-OIG"), which has been conducting an investigation into the activities of CARMINE MARINO, the defendant, among others, in connection with embezzlement from the City University of New York. During the investigation, NYS-OIG has gathered evidence, including but not limited to financial records, witness statements, and electronic evidence, and analyzed and summarized that evidence. The information set forth below, except where specifically indicated, is based on my review of the relevant evidence and analyses obtained or conducted by NYS-OIG and my discussions with NYS-OIG investigators who gathered and analyzed the evidence.

6. As set forth in more detail below, there is probable cause to believe that CARMINE MARINO, the defendant, engaged in two similar schemes to embezzle funds that rightly belonged to CUNY SPS by, among other things, converting the use of money held in CUNY SPS bank accounts to his own financial benefit. As part of these schemes, MARINO opened two bank accounts, with himself as signatory, that were made to appear as official CUNY SPS accounts but that in fact bore no legitimate connection to that institution. Instead, MARINO solely controlled both accounts and used them to divert large sums of cash from CUNY SPS for his personal benefit.

BACKGROUND

7. CUNY SPS is a school of the City University of New York ("CUNY") located in New York, New York. I am aware, through publicly available information, that at all times relevant to this complaint, both CUNY and CUNY SPS received in excess of $10,000 per year in aid from the federal government.

8. Based upon my conversations with NYS-OIG investigators, who have interviewed current and former members

of the CUNY SPS administration and reviewed documents from CUNY and other sources, I have learned the following about CARMINE MARINO, the defendant:

a. MARINO was employed at CUNY SPS from approximately 2007 through 2012. Specifically, from July 2007 to June 2009, MARINO was CUNY SPS's Manager of Fiscal Operations; and from July 2009 to May 2012, he served as CUNY SPS's Director of Fiscal and Business Operations. In both of these roles, MARINO had responsibility over CUNY SPS's bank accounts, including recording transactions, depositing checks, disbursing payments, and reconciling the accounts.

b. In or about May 2012, MARINO was transferred to a position at CUNY City College's Office of the Vice President of Finance and Administration. MARINO was placed on administrative leave in or about December 2012 as a result of CUNY's discovery of certain unauthorized transactions by MARINO, and he was terminated by CUNY in or about May 2013.[1]

The Defendant's Opening and Use of CUNY SPS-Related Bank Accounts

9. Based on my review of records from an FDIC-insured bank located in Manhattan ("Bank-1"), and upon my conversations with NYS-OIG investigators who have interviewed current and former members of the CUNY SPS administration, I have learned the following:

a. In or about July 2008, CARMINE MARINO, the defendant, without authorization from CUNY SPS, opened a bank account with Bank-1 under the business name "CUNY School of Professional Studies," using CUNY SPS's employer identification number ("SPS Unauthorized Account-1").

b. SPS Unauthorized Account-1 was opened with a $5,000 check signed by MARINO. The check was drawn from a CUNY SPS bank account that was maintained by CUNY SPS at another FDIC-insured bank to receive the university's tuition and fees ("SPS Tuition and Fees Account"), and over which MARINO had signatory authority. The check signed by MARINO was made payable to "City University of New York" and contained a memo line stating "NY Times Project," which was the name of an actual project being worked on at CUNY SPS at the time.

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[1] Pursuant to a settlement agreement entered into by CUNY SPS and MARINO, CUNY SPS withdrew its termination of MARINO and retroactively permitted him to irrevocably resign from CUNY SPS.

c. On or about October 7, 2008, a $26,000 check also signed by MARINO and drawn from the SPS Tuition and Fees Account was deposited into SPS Unauthorized Account-1. This check was made payable to "CUNY" and bore the memo line "Tuition Transfer."

d. As confirmed by information contained on withdrawal tickets provided by Bank-1, on or about the date the $26,000 check was deposited into SPS Unauthorized Account-1, MARINO withdrew $2,500 cash from SPS Unauthorized Account-1.

e. Between November 2008 and March 2009, Bank-1 records confirm that MARINO made four additional cash withdrawals of $2,500 each from SPS Unauthorized Account-1.

f. On or about April 10, 2009, MARINO transferred approximately $12,500 -- an amount that was equivalent to the total amount of cash he had withdrawn from SPS Unauthorized Account-1 -- to the SPS Tuition and Fees Account. Specifically, MARINO signed five sequentially numbered checks from SPS Unauthorized Account-1, totaling $12,500, which he then deposited back into the SPS Tuition and Fees Account.

g. On June 9, 2009, as confirmed by records from Bank-1, MARINO withdrew in cash the remaining $6,000 from SPS Unauthorized Account-1, after which he closed the account.

h. In total, between October 2008 and June 2009, MARINO withdrew $18,500 in cash from SPS Unauthorized Account-1. Each of the withdrawal tickets for these cash transactions bore MARINO's name and his New York State Driver's License identification number as the transactor.

10. Based on my review of records from Bank-1, and upon my conversations with NYS-OIG investigators who have interviewed current and former members of the CUNY SPS administration, I have learned the following:

a. In or about December 2011, CARMINE MARINO, the defendant, without authorization from CUNY SPS, opened a bank account with Bank-1 under the business name "CUNY SPS Special Fund Account" ("SPS Unauthorized Account-2" and collectively with "SPS Unauthorized Account-1," the "SPS Unauthorized Accounts"). MARINO was the only signatory of SPS Unauthorized

Account-2, which was opened using CUNY SPS's tax identification information.

b. A check for $50,000 signed by MARINO was used to open SPS Unauthorized Account-2. The check was drawn from the SPS Tuition and Fees Account, over which MARINO had signatory authority. The check was made payable to "CUNY School of Professional Studies," and had a memo line of "ACE Transfer." "ACE" stands for Adult Continuing Education, which was the name of a legitimate expenditure category for CUNY SPS.

c. Between January 2012 and April 23, 2012, MARINO withdrew a total of $33,000 in cash from SPS Unauthorized Account-2, in increments of $3,000 and $6,000.[2] Each of the withdrawal tickets for these cash transactions bore MARINO's name and his New York State Driver's License identification number as the transactor.

d. In February 2012, in the midst of making these cash withdrawals, MARINO briefly closed out the remaining balance of SPS Unauthorized Account-2, withdrawing $6,000 cash and transferring $37,958.35 to another CUNY SPS bank account over which he had signatory authority (the "SPS Fundraising Account"). The transferred amount was redeposited back into SPS Unauthorized Account-2 shortly thereafter, and MARINO then continued to make cash withdrawals from SPS Unauthorized Account-2.

e. After MARINO made the last cash withdrawal from SPS Unauthorized Account-2 on or about April 23, 2012, he transferred the remaining balance of the account to two CUNY SPS bank accounts. In particular, he transferred $10,000 to the SPS Fundraising Account, and he transferred $6,950.30 to the SPS Tuition and Fees Account.[3]

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[2] The dates of these withdrawals coincided with the dates of MARINO's regularly scheduled receipt of payroll from CUNY SPS via direct deposit.

[3] On or about May 1, 2012, shortly before being reassigned from CUNY SPS to another position in CUNY, MARINO made a cash deposit of $33,000 to the SPS Fundraising Account, which was the same amount as the cash withdrawals he made from January to April 2012 from SPS Unauthorized Account-2. The source of the cash that MARINO deposited into the SPS Fundraising Account currently is unknown.

11. Based on my participation in this investigation, and my training and experience, I believe that CARMINE MARINO, the defendant, avoided detection for his unauthorized transfers of money out of legitimate CUNY SPS bank accounts to the SPS Unauthorized Accounts by making the initial withdrawals using checks made out to CUNY or CUNY SPS with memorandum lines referring to legitimate projects. By covering up the unauthorized transfers with references to legitimate projects, it would have been very difficult to determine that MARINO made the transfers to embezzle the money since, as described below, CUNY SPS was not aware of the existence of the SPS Unauthorized Accounts.

12. Based on upon my conversations with NYS-OIG investigators who have interviewed current and former CUNY SPS administrators, as well as my review of reports prepared by other state investigators of their interviews with those administrators, I have learned the following, among other things:

a. According to CUNY SPS administrators interviewed by NYS-OIG, CARMINE MARINO, the defendant, was not authorized to open the SPS Unauthorized Accounts, nor was he authorized to transfer any monies from CUNY accounts to the SPS Unauthorized Accounts or to any other non-CUNY source. The school only became aware of the SPS Unauthorized Accounts after MARINO had been transferred from CUNY SPS. In particular, the school first learned of SPS Unauthorized Account-2 in or about December 2012 in connection with its review of the SPS Fundraising Account after MARINO had been transferred from CUNY SPS, and of SPS Unauthorized Account-1 as a result of an internal investigation conducted in or about 2014 by CUNY SPS of embezzlement by MARINO.

b. After the unauthorized transfers from SPS Unauthorized Account-2 were discovered by CUNY SPS, CUNY's Director of Internal Audits interviewed MARINO, who stated that a CUNY SPS senior administrator ("Administrator-1") was aware of SPS Unauthorized Account-2. NYS-OIG investigators interviewed Administrator-1 and he denied having any knowledge of that account.

c. MARINO further stated to CUNY's Director of Internal Audits that MARINO had withdrawn the money in order to pay certain CUNY SPS vendors because MARINO did not believe that

CUNY SPS would be able to fulfill its payment obligations as it was in the middle of migrating to a new payment system.

d. Although CUNY SPS did migrate to a new payment system at or around when MARINO opened and used SPS Unauthorized Account-2, CUNY SPS was still able to pay its bills. Moreover, CUNY SPS has no records reflecting any payments to any of its vendors that correspond to any of MARINO's cash withdrawals.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of CARMINE MARINO, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

Jerome Combs
Special Agent, DOE-OIG

Sworn to before me this
4th day of April, 2017

THE HONORABLE ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK